



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
**SPECIAL MEETING OF FEBRUARY 27, 2014**  
**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

The items listed on the Agenda are incorporated and considered to be a part of the minutes herein.

Treasurer John N. Kennedy called the meeting to order. Laura Lapeze called the roll.

**MEMBERS PRESENT:**

John Kennedy, State Treasurer

Ruth Johnson, Deputy Commissioner, designee for Commissioner Kristy Nicholls

Tom Cole, designee for Legislative Auditor Daryl Purpera (Non-voting member)

**OTHER PERSONS PRESENT:**

Representative Chris Broadwater

Tim Barfield, Secretary, Louisiana Department of Revenue

Jarrold Coniglio, Deputy Secretary, Louisiana Department of Revenue

B.J. Meche, Director, Office of Debt Recovery

Rick McGimsey, Assistant Attorney General

Byron Henderson, Collection Section Chief, Department of Justice

Ron Henson, First Assistant State Treasurer

Jim Napper, Executive Counsel, State Treasurer

Laura Lapeze, CFO, State Treasury

Marella Houghton, CPA, State Treasury Fiscal Control Manager

Ruth Johnson moved for approval of the minutes for the November 21, 2013 meeting, seconded by Tom Cole, and without objection, the minutes were approved.

Treasurer Kennedy requested the Louisiana Department of Revenue (LDR) and the Attorney General's (AG's) Office report on the implementation and status of Act 399 and the Office of Debt Recovery (ODR). Specific items requested to be discussed are: (1) the role of LDR in ODR relating to final debt; (2) the role of the AG's Office in ODR relating to non-final debt; (3) progress made on the collection of ethics fines; and (4) progress made on the collection of debt from Non-Governmental Organizations (NGOs).

Secretary Barfield opened with a presentation of ODR's updated Program Status Report, stating that the Agency Debt Registry (ADR), which maintains separation between Louisiana ODR's Consolidated Debt Management System, LDR's Tax System, and AG's Collection System while allowing agencies to upload, authenticate, and recall debt, is currently in system testing. However, ADR testing will be complete and ready to begin receiving data in congruent timing with ODR completing all agency participation agreements. Training material is currently being developed for the agencies that will have access to ADR, and LDR is currently focusing on six state departments where 92.68 % of state debt is concentrated: (1) Department of Corrections, Adult Probation and Parole; (2) Department of Children & Family Services; (3) Department of Health and Hospitals; (4) Department of Public Safety; (5) LDR; and (6) Louisiana Workforce Commission. Secretary Barfield explained that the individual outstanding debt totals for the six agencies total \$554,003,928 of the state's debt. A user meeting is planned for these six departments on March 24, 2014 with the following agenda: (1) presentation of the ADR and training from Ultix; (2) presentation on DLINKS system from Deloitte & Touche; (3) presentation on Financial Institutions Data Match (FIDM); and (4) assignment of the ODR liaison for each agency.

Secretary Barfield stated that LDR has gone through the Request for Proposal (RFP) process and is confident that the consolidated debt management system is close to being finalized. A Procurement Support Team (PST) meeting is scheduled for March 6, 2014. The PST will review the consolidated debt management system and



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
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**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

focus on ways to build, operate, and combine the system with other services.

Representative Broadwater inquired about the plan for those agencies that are not the top six agencies. Secretary Barfield expressed that there is ongoing work with other agencies, such as: (1) ODR has mechanisms in place to collect tax debt that is subject to Act 399, and these mechanisms are extended to all agencies; (2) the Project Management Office is exercising organizational work, meeting work, and agency leadership work with all agencies; (3) the Contractor Licensing Board is willing to assist with the suspension of certain licenses to parties who owe debt to the State; (4) ODR has met with a few agencies that are not included in the top six agencies but possess the capabilities to use ODR's tax refund offset mechanisms; (5) ODR anticipates an outreach plan to contact and pursue the needs of other agencies including administering agency participation agreements and issuing a draft for Intent for Rule Making to obtain clarity given that Act 399 intended for all agencies to begin transferring debt to ODR on January 1, 2014, pursuant to the rule. Agencies have multiple types of debt, debtors, and stakeholders; therefore, there is diversity in legal proceedings. ODR is aware that state or federal rules may apply to certain types of debt and will practice diligence, efficiency, and confidentiality in transferring data.

Until agency participation agreements are finalized, Secretary Barfield is instructing agencies to continue performing current practices in respect to final debt. When ODR contacts an agency, the agency can expect for ODR to begin negotiating agency participation agreements and studying any pre-existing contracts that the agency holds with other collection agencies. ODR will decide if the pre-existing contracts should be continued. If the contracts will be continued, ODR anticipates creating a Cooperative Endeavor Agreement rather than taking time to recreate another contract. Secretary Barfield stressed the importance of keeping all work transparent.

Representative Broadwater inquired if after studying a pre-existing contract and not seeing great returns from the contract, what action does ODR plan to perform. Secretary Barfield expressed that if an agency owns a pre-existing contract with the AG's Office, that debt will not be subject to Act 399. If there is an issue relating to performance problems, it will be addressed when ODR gets to that agency. ODR has met with some agencies in relation to performance problems and is willing to take action with those agencies first. ODR is in the process of rolling out resources for ODR; however, the funding appropriated to ODR has been limited. The original vision to fund ODR included a 25% additional fee, but that fee does not apply until debts become final after June 17, 2014.

Secretary Barfield explained that agencies that have contacted ODR will be reviewed first. ODR estimates 15 agreements have been created with other agencies to use ODR's tax offset mechanisms. Secretary Barfield stressed that ODR is striving to keep the process organized on a phased-in approach. ODR is willing to take action if an agency wants to be accelerated into the process due to performance issues, but there are obviously some challenges.

Representative Broadwater inquired about the terms of funding for next year in relation to ODR, progress being made on the RFP for the Centralized Debt Management System, and any subsequent RFPs. Secretary Barfield expressed that ODR expects to receive additional RFPs in relation to debt collection relationships for specific types of debt, and plans to research options with other local debt collectors, not using only one debt collection agency. This will take place after agency participation agreements are developed. The LDR has discussed various forecasts of funding with the Division of Administration.

Secretary Barfield expressed confidence to the Board that ODR will obtain the appropriate funding to continue the phase-in approach as it is presently going. The collection of the 25% additional fee is difficult to predict



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
**SPECIAL MEETING OF FEBRUARY 27, 2014**  
**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

until further information is gathered. ODR is unsure of which debt the fee will be assigned to and how successful the office will be in collecting that fee over the next year; however, by reviewing ODR's receivables and collections history, the collection of those fees should be slowly increasing over the next two years.

Representative Broadwater inquired about the tasks ODR will be performing in-house versus externally. He also inquired whether ODR will possess the ability to operate and deliver using their own capacity or will they gain the assistance of an outside host. Secretary Barfield stated the primary plan for operations is to use LDR's existing Collections Office. He predicts ODR will be a highly stream-lined, automated office with the use of an electronic debt registry, a centralized debt management system, and a select set of tools that may be unique to specific state agencies. Such tools include the tax refund offset tool, DLINKS, and FIDM. Secondly, the office plans to use contractors such as the AG's Office and outside collection agencies (OCA's) to perform the bulk of the debt collection.

Secretary Barfield stated that the RFP does look at a potential scenario that includes a wholesale-type solution for the State. ODR is aware of private companies having debt management systems and centralized debt management systems, but those companies only sell those system services in conjunction with a wider scope of services. One amendment to the RFP is the option for a wholesale type solution, which may provide a better solution for some of the budget issues going forward.

Representative Broadwater inquired as to how LDR calculated the age of outstanding agency debts, an expectation of other agency debts, what has been collected this year, and what is expected for next year. Secretary Barfield stated that the information originated from an Office of Statewide Reporting and Accounting Policy (OSRAP) report that includes debt less than three years old and greater than 180 days old. There are a number of agencies that own debt that has been moved to the write-off category, which is not included in the OSRAP report. Tax debt has a ten year prescriptive period, and the OSRAP report does not include any debt greater than three years; however, LDR continues to exercise legal rights to collect such debt.

Secretary Barfield stated that LDR is using collection tools such as a tax refund offset tool and FIDM, a highly automated tool that permits ODR to levy the bank accounts of debtors when the debt is considered final. FIDM provides for certain data concerning debts and debtors to be collected and distributed to participating financial institutions through a vendor. Upon each match of debts and debtors, ODR will immediately levy the funds in the debtor's bank account. FIDM is currently under testing and is projected to be operating for the month of April.

Treasurer Kennedy inquired as to what circumstances would a bank decline participation with FIDM. Secretary Barfield stated that the Banking Association has been very accommodating in their involvement with LDR and FIDM. FIDM is viewed as an additional governmental mandate. If a bank decides to participate in FIDM, it is compelled to take steps to employ the terms of the contract. Such steps include signing participation agreements, understanding technical issues relating to federal and state tax information, and sending data to the involved bank's legal department for review. In November 2013, LDR gained participation from 15% of the bank population and anticipated to gain more. There are presently 205 out of 365 banks in Louisiana signed up for FIDM, estimating 56% of the bank population. The relationship between the amount of banks involved in FIDM and existing debt is inversely related.

Treasurer Kennedy requested elaboration of the idea of a wholesale approach that is referenced in the RFP. Secretary Barfield explained that the RFP provides for the option of outsourcing the entire operation to a third-party vendor who can provide more comprehensive services beyond the capabilities of the State. Through studies, it was proven that states who recovered debt successfully contracted with third-party vendors. These



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
**SPECIAL MEETING OF FEBRUARY 27, 2014**  
**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

vendors have sophisticated debt management tools and are not willing to sell the tools separately; however, there is an option to use such tools utilizing a broader agreement. LDR's preliminary plan for ODR is to keep a level of cooperation within the State. Many third party vendors will require a percentage of the debt collected as a service fee. LDR will have a Procurement Selection Committee to aid in selecting vendors if this option is chosen.

Treasurer Kennedy inquired about the authority ODR has to handle a long-standing relationship between a state agency and an outside debt collection agency where the collection agency is not performing at an acceptable level. Secretary Barfield stated that Act 399 mandates that any debt older than 60 days will be transferred to ODR, and ODR will assume full responsibility and authority to collect the debt. This process includes contracting with any necessary outside debt collection agencies and the AG's Office. ODR will pursue agreements with outside debt collection agencies under circumstances where the outside debt collection agency proves to be performing well. Conversely, under circumstances where the outside debt collection agency is not performing at an acceptable level, ODR will hold the burden of making necessary alterations. Such alterations may include only adjusting the process in which the outside debt collection agency gathers information. The outside debt collection agency involved holds the right to meet with the Cash Management Review Board, and may challenge decisions made by ODR. LDR is aware of the possible legal issues for ending a contract that has not expired or has a right to terminate for convenience; therefore, agreements will not be terminated if avoidable. Decisions will be made based on statistics from other states or areas where debt collection activities have been more successful, no different in how ODR will choose vendors.

Treasurer Kennedy turned the meeting over to Assistant Attorney General Rick McGimsey. Mr. McGimsey provided an update of the AG Office's role in ODR. Presently, the AG's Office holds 30 contracts with state agencies, boards, and commissions and holds 27 contracts with universities and colleges for the purpose of collecting account receivables and debts. The average inventory from fiscal year 2013 is divided into 3 categories; (1) education averaging 9,500 accounts at \$13.5 million, (2) revenue approximating 100,000 accounts at \$15.3 million, and (3) state agencies averaging approximately 119,000 accounts. The collection for fiscal year 2013 was \$7,087,496 with an annual recovery rate of 16.79%. The average age of the debts recovered is 3 to 7 years. All accounts are being reduced to final judgments and collected.

The AG's Office presently uses LDR's tax refund offset tool and ultimately will gain access to all LDR's collection tools, including FIDM. The AG's Office is using all resources available to collect debt from outstanding accounts. If the AG's Office is unsuccessful in collection, the accounts will be sent to ODR, and the data will be entered into that debt collection process. A decision will be made as to whether ODR uses a third-party debt collector or outside collection agency to collect or write off the debt. ODR will not send the debt back to the agency.

The AG's Office is on pace to collect at an even greater rate of recovery this year even though the amnesty program required the AG's Office to send all of the revenue accounts back to LDR. The AG's Office is currently regaining these past due accounts. Even in their absence, the collection rate from other agencies, boards, commissions, and universities will surpass last year's collection rate. The most difficult task with large corporate debt is bringing the judgment to final status, not collections.

Treasurer Kennedy inquired of what percentage of the money paid in amnesty was a result of settlement versus a final judgment. Secretary Barfield stated that approximately 15% were final judgments, and 85% was the result of contested matters that were paid on assessments not yet final, resolutions or settlements in the litigation process. Approximately 60,000 amnesty participants were individual taxpayers of small amounts. The big numbers came from corporate or complex taxpayers.



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
**SPECIAL MEETING OF FEBRUARY 27, 2014**  
**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

Treasurer Kennedy inquired about the status of ethics fines. The AG's Office has received 160 accounts totaling \$700,000 from the Board of Ethics and are in the early stages of the collection process, such as issuing demand letters. Treasurer Kennedy inquired why the Board of Ethics only submitted 160 accounts to the AG's Office when there are hundreds of accounts past due. Mr. McGimsey stated there are 2 types of ethics fines: (1) campaign violations and (2) failure to complete a personal disclosure.

The AG's Office works with the Secretary of State to collect fines when someone wants to qualify for office. However, the Board of Ethics has their own administrative process that they want to use to make debt final. The campaign violation fines are quickly deemed final prior to the AG's Office receiving those debts. A similar process for personal disclosure fines needs to be developed. The Board of Ethics does not have a large amount of resources to devote to collections, but if they can finalize judgments and deem debt as final, then these names can be input into FIDM and their bank accounts seized. LDR and the AG's Office have been in three separate meetings with the Board of Ethics as well as have met with a subcommittee to talk about these issues. ODR will follow up with the Board of Ethics, but it seems as though their intent is to improve the efficiency of gathering finalized debt. LDR will make their office and tools available to the Ethics Commission and the AG's Office whenever the debt is final and can be put through the tools.

Treasurer Kennedy inquired if he does not file his campaign finance report and the Board of Ethics fines him, at what point does that become final. Mr. McGimsey stated that the Treasurer would be notified by the Board of Ethics. There would be an administrative process, and that process would make the debt final. Once the judgment is final, it would be sent to the AG's Office to implement and collect. The AG's Office would send it to LDR to enter the data into FIDM. Once FIDM finds a match with bank accounts, garnishment would begin.

The design of ODR is to use all tools until the debt is paid. The tools include FIDM, suspension of licenses, state tax refund tools, and not allowing an individual to run for office if they have an outstanding ethics fine. The Centralized Debt Management system proves to be very important in that ODR does not want to collect a debt twice. Outside debt collectors and the AG's Office are still needed to perform classical collections work.

Representative Broadwater inquired of Mr. McGimsey about his earlier comment of bringing the debt to final judgment then making efforts to collect. Mr. McGimsey confirmed that the intent is to utilize all of these tools, including using FIDM and suspension of licenses, concurrently once the debt is final.

Representative Broadwater noted that the Act gave certain authority to ODR in having agencies turn matters over to them, and likewise gave the same authority in terms of turning matters over to the AG's Office. Representative Broadwater inquired about how the AG's Office proposes to handle the agencies and universities who are already engaged with outside debt collectors via contract. Mr. McGimsey stated that they are making contact with those agencies or the agencies are reaching out to the AG's Office, and they are not aware of an issue with an existing third party collection agency making it difficult for an agency to get out of a pre-existing contract or standing in the way of an agency negotiating a new contract with the AG's Office.

Representative Broadwater stated that he reviewed a 2013 contract for Southeastern Louisiana University (SLU) and was surprised that the contract was not the typical state contract. It had a specified term of one year, but did not have a clause in it dealing with termination either for cause or for convenience.

Mr. Byron Henderson, the Collection Chief for the AG's Office, stated that the AG's Office is currently collecting for SLU and met with several colleges and state universities to advise them they had to start sending



**MINUTES**  
**CASH MANAGEMENT REVIEW BOARD**  
**SPECIAL MEETING OF FEBRUARY 27, 2014**  
**HOUSE COMMITTEE ROOM 1**  
**STATE CAPITOL BUILDING**

all their accounts to the AG's Office once their current contract expires. Universities have not been terminating contracts.

Mr. Henderson explained that there are new placements and accounts that a collection agency already has. If an existing contract did not specify certain placement guidelines that accounts had to be placed during the contract, the agency could stop making new placements. New referrals would go to the AG's Office, and the old accounts will go the AG's Office at the end of the contract. Therefore, if it was a non-exclusive contract, the agency or university would not be precluded from entering into an additional contract with additional collectors.

Treasurer Kennedy inquired if it would be possible to obtain information in regards to what is outstanding in money owed to the State through the ethics commission and how we can help them.

The Treasurer asked for a status update on the NGO efforts to collect money. Mr. McGimsey stated that currently the AG's Office has 24 NGO accounts they have sent to make final. The AG's Office sent letters to all accounts on February 21, 2014. Two accounts were returned because they were deemed in compliance with the guidelines, and six (6) NGOs responded either by phone, letter, or in person to work toward compliance. All other accounts are being evaluated to see if they are still in existence and operating and to determine the type of collection efforts to employ.

Treasurer Kennedy asked if only six (6) of the 22 NGOs listed as not in compliance responded, and if cross-referencing with other agencies to ensure they are not receiving any more money is taking place. Treasurer Kennedy also asked if the AG's Office could send the Division of Administration a letter stating that of 22 NGOs, all but six (6) have ignored the AG's Office, are not in compliance with the law, and should not receive any more money from the State. Treasurer Kennedy also inquired about checking to see if they have consulting contracts with other departments. Mr. McGimsey stated that they will check with the Division of Administration. Treasurer Kennedy strongly encouraged the AG's Office to litigate even if the funds cannot be recovered because sometimes there is a principle involved.

Secretary Barfield wrapped up with a summary of the various collection tools and stated that there will be a phasing-in system, as other states have done in implementing their centralized debt management systems. In May 2014, the Deferral Vendor Payment Interception system should be in place and by February 2015, the State Vendor Payment Interception system should be in place. Other Collection Tools include the State and Federal Income Tax Refund Garnishment that will come into place next year. License suspensions are in process.

Having no further business to discuss, and without objection, Treasurer Kennedy adjourned the meeting.